IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SIXTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

-

WRIT PETITION Nos. 11444 of 1992, 19249 of 2002

and 19255 of 2002

1)WRIT PETITION NO : 11444 of 1992:

Between:

1 V.Ramakrishna Reddy, s/o. V.Dasi Reddy
Daminedu Village, Tirupathi Rural Mandal, Chittoor District
2 K.Sankar Reddy, s/o Raghava Reddy
r/o. Daminedu Village, Tirupathi Rural Mandal, Chittoor Dist

..... PETITIONERS

AND

The District Collector
Chittoor **.....RESPONDENT**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue of writ of Certiorari or any other appropriate writ or direction calling for the records relating to the order passed by the respondent herein in his Ref.No. B3/1428/90, dt. 24/06/1992 and set-aside the same as illegal.

Counsel for the Petitioners: MR.P.GANGA RAMI REDDY

Counsel for the Respondent : GP FOR REVENUE

2) WRIT PETITION NO : 19249 of 2002

Between:

The Mandal Revenue Officer, Tirupati Rural Mandal,
Chittoor District. **..... PETITIONER**

AND

1 The Commissioner of Appeals, O/o. Chief Commissioner of Land Administration, Govt. of A.P., Nampally, Hyderabad.
2 The Director of Survey, Settlements and Land Records, Govt. of A.P., Hyderabad
3 The Settlement Officer, Nellore.
4 K. Sankar Reddy s/o. Raghava Reddy
R/o. Jayasankar Nagar, A.I.R. Bye-Pass Road, Tirupati
Chittoor District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction more particularly one in the nature of Writ of Certiorari by calling the records relating to and connected with the Orders of the Commissioner of Appeals, A.P., Hyderabad by proc.No.P3/428/2000 dated 14-12-2000; Director of Settlements, A.P., Hyderabad Order in RP.No.269/84/H1 dated 12-11-1999 and Order of Settlement Officer, Nellore in SR.No.58/11(a)/81 dated 10-11-1981 and quash the same as illegal and arbitrary and contrary to the provisions of Estate Abolition Act.

Counsel for the Petitioner : GP FOR REVENUE

Counsel for the Respondents 1 to 3: G.P. for Food & Agriculture

Counsel for the Respondent No.4 : MR.P.GANGA RAMI REDDY

3) WRIT PETITION NO : 19255 of 2002:

Between:

The Mandal Revenue Officer, Tirupati Rural Mandal,
Chittoor District. **..... PETITIONER**

AND

1 The Commissioner of Appeals, O/o. Chief Commissioner of Land Administration, Govt. of A.P., Nampally, Hyderabad.
2 The Director of Suvey, Settlements and Land Records, Govt. of A.P., Hyderabad.
3 The Settlement Officer, Nellore.
4 V. Ramakrishna Reddy, s/o. Dasi reddy,
R/o. 13-571 B, Tata Nagar, Tirupati, Chittoor District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction more particularly one in the nature of Writ of Certiorari by calling the records relating to and connected with the Orders of the Commissioner of

Appeals, A.P., Hyderabad by proc.No.P3/427/2000, dated 14-12-2000, Director of Settlements, A.P., Hyderabad Order in RP.No.258/84/H1 dated 12-11-1999 and Order of Settlement Officer, Nellore in SR.No.72/11(a)/80 dated 6-7-1981 and quash the same as illegal and arbitrary and contrary to the provisions of Estate Abolition Act.

Counsel for the Petitioner: GP FOR REVENUE

Counsel for the Respondents 1 to 3: G.P. for Food & Agriculture.

Counsel for the Respondent no.4: : MR.P.GANGA RAMI REDDY

The Court made the following :

THE HON'BLE SRI JUSTICE B.PRAKASH RAO

WRIT PETITION Nos.11444 of 1992,

19249 of 2002 & 19255 of 2002

COMMON ORDER:

Since common question is involved in all these Writ Petitions, they are taken up together for disposal.

Heard both sides.

The petitioners in W.P.NO.11444 of 1992, claiming to be the ryotwari patta holders, filed the Writ Petition, *inter alia*, seeking to assail impugned proceedings dated 24.06.1992 passed by the respondent therein viz. the District Collector, Chittor, cancelling earlier orders issued for implementation of the patta and restoration of classification as granted earlier in pursuance of two different proceedings dated 03.06.1983 and 29.01.1982 in favour of the petitioners 1 and 2 respectively.

The case of the petitioners, in brief, is that originally in respect of two different extents, ryotwari pattas were granted on 10.11.1981 and 06.07.1981 respectively, in favour of petitioners 1 and 2. Thereafter, the said proceedings were directed to be implemented as per orders of the respondent dated 06.05.1983 and 29.01.1982 and accordingly, after their implementation, pattadar pass books were also issued in their favour. However, as per the proceedings dated 20.05.1984, the Government issued instructions to the Tirupathi Urban Development Authority and the Municipal Authorities of Tirupathi not to take cognizance of the said pattas issued by the Settlement Officer, Nellore, in favour of the petitioners as long as the same were not confirmed by the District Collector. Thereafter, the Director of Settlements has also initiated *suo motu* enquiry as per the proceedings dated 19.06.1984 and issued notice to the petitioners and the said proceedings are pending. Stay was sought to be granted in the said proceedings, but, since the pattas were also implemented, it has become infructuous. Subsequently, the Mandal Revenue Officer, Tirupathi Rural issued proceedings dated 23.05.1987 to the Sub Registrar, Tirupathi for deletion of the said lands from the list of Government lands. In spite of the same, the respondent-District Collector, Chittor has issued impugned proceedings cancelling the earlier orders for implementation in favour of the petitioners. The complaint of the petitioners is that the impugned proceedings dated 24.06.1992 are one without notice and also without considering the effect of the patta granted in favour of the petitioners. Therefore, the impugned orders are liable to be set aside. It was also pointed out that having regard to the pattas granted in their favour, which were sought to be implemented, there is no need to cancel the same. Hence, the Writ Petition.

Subsequent to filing of the above Writ Petition, the other two Writ Petition nos.19249 of 2002 and 19255 of 2002 were filed by the Mandal Revenue Officer, Tirupathi Rural, Chittor district assailing the

subsequent orders passed by the Director of Settlements(R.2) dated 12.11.1999 as confirmed in appeal by the Commissioner of Appeals (R.1) as per orders dated 14.12.2000. The grievance of the petitioner in these two Writ Petitions is that having regard to the nature of the land especially forming part of a State, granting pattas in favour of the petitioners in the other Writ Petition, who are fourth respondent in each of the Writ Petition, does not arise. Further, it is also their case that such grant of patta is not permissible in view of G.O.Ms.No.50, dated 16.01.1974. Though the Director of Settlements initiated the proceedings *suo motu*, subsequently the same were dropped as per the proceedings dated 12.11.1999 on the ground that there is no reason to interfere with the proceedings. Even the appeal filed by the petitioners was also not considered and the same was rejected as per the order dated 14.12.2000. Therefore, it was submitted that there has been no proper enquiry by the competent authority as contemplated under the Estates Abolition Act nor the petitioners in the other Writ Petition have made out any case to grant any such pattas under the provisions of the said Act. These and several other aspects having not been properly considered and hence, the impugned orders are liable to be set aside.

Considering the submissions made and also on perusal of material, the short question which arises for consideration in these Writ Petitions is as to whether the proceedings initiated subsequent to grant of pattas and orders issued for their implementation are valid and sustainable ?

There is no dispute to the fact that both the petitioners in the first Writ Petition were granted pattas by the Settlement Officer on 10.11.1981 and 06.07.1981, and subsequently, proceedings have been issued for their implementation and pattadar pass books have also been issued. However, case of the authorities, who are petitioners in the latter two Writ Petitions, is that the concerned Officer at the relevant

point of time issued several pattas contrary to the provisions and subsequently action was also initiated against him. It is their further case that in view of the provisions of the Estates Abolition Act, question of granting such pattas without establishing the basic ingredients and possession as contemplated thereunder, does not arise. The Director of Settlements had initiated *suo motu* proceedings and issued notices to the petitioners in the first Writ Petition. However, subsequently, the said proceedings were dropped on the ground that there is no warrant for any interference and the said orders were confirmed in appeal by the Commissioner of Appeals. Several contentions are sought to be urged on both sides as to the genuineness of the pattas granted in favour of the petitioners in the first Writ Petition and also their validity in view of the provisions of the Estates Abolition Act and the nature of the land. In the latter two Writ Petitions, certain serious allegations have also been made against the officer, who, acting as Settlement Officer, granted pattas, on the ground that all such pattas were found to be incorrect and action has also been initiated against the said Officer. However, the fact remains that though the pattas were granted and they were sought to be implemented by the authorities, the correctness of the same was not questioned at any point of time. Though the Director of Settlements initiated *suo motu* proceedings and the same were pending at the time of filing of W.P.No.11444 of 1992, the petitioners therein except impleading the District Collector, Chittor as sole party-respondent, did not choose to implead the Director of Settlements before whom such proceedings were pending, and the main complaint was that in spite of such pendency, proceedings have been issued by the District Collector for cancelling orders of implementation. Later on the authorities have taken up themselves with proceedings, but in vain.

On perusal of both the orders passed subsequently viz. by the Director of Settlements and also the Commissioner of Appeals, it is seen that several questions are sought to be pointed out especially

as to the validity of the pattas and entitlement therefor as contemplated under the provisions of the Estates Abolition Act have not been considered from a proper perspective. Especially when such serious allegations are sought to be made against the Officer and the Director of Settlements having initiated *suo motu* proceedings, the same could not have been closed simple saying that there is no warrant to interfere. Necessarily, it contemplates a comprehensive enquiry as to the nature of the land and the entitlement of any such patta in favour of the petitioners in the first Writ Petition. These are all matters which are to be considered only by the competent authorities and this Court in exercise of powers under Article 226 of the Constitution of India, can not embark into any enquiry as such. In the circumstances, it is felt more desirable that a comprehensive enquiry be held with due notice and opportunity to the parties concerned, and orders be passed after giving due consideration to the various aspects as pointed out against grant of pattas.

The Writ Petitions are accordingly disposed of directing the Director of Survey, Settlements and Land Records, Government of Andhra Pradesh, Hyderabad to conduct a comprehensive enquiry by giving due notice and proper opportunity to the parties concerned and pass orders on merits in accordance with Law. No costs.

26.10.2004

DRK

Copy to:

1 The District Collector, Chittoor dist., Chittoor.

2 The Commissioner of Appeals, O/o. Chief Commissioner of Land Administration, Govt. of A.P., Nampally, Hyderabad.
3 The Director of Survey, Settlements and Land Records, Govt. of A.P., Hyderabad
4 The Settlement Officer, Nellore.

5 Two CCs to the G.P. for Revenue, High Court buildings, High Court of A.P., Hyderabad (o.u.t.).

6 Two CD copies.